

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RUBEN MARTINEZ-CASTRO,	)	CASE NO. 1:20-CV-02153
)	
Petitioner,	)	JUDGE CHARLES E. FLEMING
)	
vs.	)	MAGISTRATE JUDGE JENNIFER D.
	)	ARMSTRONG
KENNETH BLACK,)	
	)	ORDER OVERRULING OBJECTION
Respondent.	)	TO MAGISTRATE JUDGE'S REPORT
	)	AND RECOMMENDATION AND
	)	ADOPTING MAGISTRATE JUDGE'S
	)	REPORT AND RECOMMENDATION
	)	(ECF NO. 15)

On November 3, 2022, Magistrate Judge Jennifer D. Armstrong issued a Report and Recommendation (ECF No. 15) (1) denying Petitioner's Second Motion to Stay (ECF No. 13) as moot; (2) denying Petitioner's Motion to Amend (ECF No. 14); and (3) substituting Kenneth Black, the current warden of the Richland Correctional Institution, as the proper respondent in this action. On November 28, 2022, Petitioner Ruben Martinez-Castro ("Petitioner") filed Objections to the Magistrate's Report and Recommendation (ECF No. 16).

Loc.R. 72.3(b), which addresses the Court's review of prisoner litigation referred to the Magistrate Judges, provides in pertinent part:

Any party may object to a Magistrate Judge's proposed findings, recommendations, or report made pursuant to Fed. R. Civ. R. 72(b) within fourteen (14) days after being served with a copy thereof, and failure to file timely objections within the fourteen (14) day period shall constitute a waiver of subsequent review, absent a showing of good cause for such failure.

Additionally, Fed. R. Civ. P. 6(d) addresses the computation of time periods prescribed by the Rules, and states that when a party is served by mail, "3 days are added after the period would otherwise expire under Rule 6(a)." Further, Fed. R. Civ. P. 6(a)(1)(C) instructs that when the last

day of the applicable time period falls on a Sunday, the time period is extended to the next business day.

The Magistrate Judge's Report and Recommendation was filed on November 3, 2022. (ECF No. 15). The docket reflects that the Report and Recommendation was sent to Petitioner by regular mail the same day. Accordingly, Petitioner had 14 days from November 3, 2022, plus an additional three days, to file his Objections. Because November 20 fell on a Sunday, the time period expired on November 21, 2022. Petitioner untimely filed his Objections on November 28, 2022, and offers no explanation for his failure to timely object. (ECF No. 16). By operation of Loc.R.72.3(b), Petitioner is deemed to have waived any objection to the Magistrate Judge's Report and Recommendation. No other objections to the Magistrate Judge's Report and Recommendation have been filed.

Absent objection, the Magistrate Judge's Report and Recommendation (ECF No. 15) is hereby ADOPTED.

IT IS SO ORDERED.

Dated: December 22, 2022



CHARLES E. FLEMING
U.S. DISTRICT COURT JUDGE